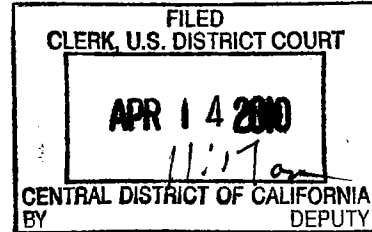


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10 Attorneys for Plaintiff
11 HARD CANDY, LLC

12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA
14 WESTERN DIVISION

15 HARD CANDY, LLC, a Florida limited
16 liability company,

17 Plaintiff,

18 vs.

19 SCOTT C. TUSCANI d/b/a "HARD
20 CANDY", an individual residing in
21 California,

22 Defendant.

Case No. **CV 10-02700 CAS**
(JEMx)

23 COMPLAINT FOR (1)
24 CANCELLATION OF DEFENDANT'S
25 TM REGISTRATION FEDERAL; (2)
26 TRADEMARK INFRINGEMENT; (3)
27 FEDERAL UNFAIR COMPETITION;
28 (4) COMMON LAW UNFAIR
COMPETITION; (5) DILUTION; (6)
UNFAIR COMPETITION (CAL. BUS.
& PROF. CODE §§ 17200, ET. SEQ.);
AND DEMAND FOR JURY TRIAL

**COMPLAINT FOR (1) CANCELLATION OF DEFENDANT'S TM
REGISTRATION; (2) FEDERAL TRADEMARK INFRINGEMENT; (3)
FEDERAL UNFAIR COMPETITION; (4) COMMON LAW UNFAIR
COMPETITION; (5) DILUTION; AND (6) STATE UNFAIR COMPETITION**

Plaintiff, HARD CANDY, LLC, by its undersigned attorneys, hereby sues
Defendant, SCOTT C. TUSCANI d/b/a HARD CANDY ("Defendant" or
"TUSCANI"), an individual, and alleges as follows:

JURISDICTION AND VENUE

1. HARD CANDY, LLC is a corporation organized and existing under the
laws of the State of Florida, and having its principal place of business in Hollywood,
Florida.

2. TUSCANI, on information and belief, is an individual residing in
Carpinteria, California, which is in Santa Barbara County.

3. This is a civil action for federal trademark infringement, cancellation of
TUSCANI's trademark registration(s), federal unfair competition, common law unfair
competition, unfair competition under California Business and Professions Code §§
17200 *et. seq.*, dilution arising under the Trademark Act of 1946, as amended, 15
U.S.C. §§ 1051-1127, and the applicable common law.

4. This Court has subject matter jurisdiction pursuant to 15 U.S.C. § 1121
(Lanham Act), 28 U.S.C. § 1331 (federal question), and 28 U.S.C. § 1338 (trademark
and unfair competition).

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b)
and (c) in that HARD CANDY LLC's controversy arises in this District, where
Defendant TUSCANI resides.

GENERAL ALLEGATIONS

HARD CANDY, LLC's use of the *Hard Candy* trademark

6. HARD CANDY, LLC is a company in the business of manufacturing goods in the fashion and beauty industry primarily for teenage girls and young female adults, including but not limited to cosmetics and fragrances under the trademark *Hard Candy*. HARD CANDY, LLC's products are currently sold in Wal-Mart retail stores across the country, and on Wal-Mart's website, www.walmart.com. HARD CANDY, LLC maintains an internet website at www.hardcandy.com, where *Hard Candy's* products are displayed with a link to Wal-Mart's website for customers interested in purchasing the products.

7. Cosmetics and fragrances are the flagship products HARD CANDY, LLC has marketed under the *Hard Candy* marks. HARD CANDY LLC's predecessor founded the company in 1995 when it created and marketed a *Hard Candy* nail polish. At that time, HARD CANDY, LLC's predecessor filed a U.S. trademark application for that product, which matured into Federal Trademark Registration No. 1987262, issued July 16, 1996. The next year, HARD CANDY, LLC's predecessor filed another application under the name *Hard Candy* for cosmetics, including lipstick, lipliner, mascara, etc., which matured into Federal Trademark Registration No. 2150397. HARD CANDY, LLC owns these Registrations and marks, and they are still valid and effective today.

8. Since then, HARD CANDY, LLC and its predecessors have adopted and continuously used in interstate commerce the trademark *Hard Candy* or, in certain instances, *HC*.

9. Under HARD CANDY, LLC's control, the *Hard Candy* brand and marks have flourished and expanded. In fact, since 1995, HARD CANDY, LLC has filed at least 32 trademark applications with the U.S. Patent and Trademark Office ("USPTO") for the following non-exclusive list of goods: cosmetics, toilet water, nail polish, hair care products, perfume, cologne, essential oils, alcoholic beverages,

1 clocks, jewelry, watches, eyeglasses, bed sheets, towels, blankets, throws, bed linens,
2 curtains, bath linens, bed canopies, bed skirts, bed spreads, cloth doilies, comforters,
3 linens, knitted fabrics, pillow cases, candy, leather goods, consumer electronics,
4 water, energy drinks, fruit drinks, beauty drinks, foods, namely chocolates, gum,
5 caramels, crackers, school supply kits, picture frames, toys, and furniture.

6 10. In addition, HARD CANDY, LLC's predecessor created a *Hard Candy*
7 Internet domain name as early as July 6, 1997 at "www.hardcandy.com". HARD
8 CANDY, LLC has used this domain name consistently since that time and through the
9 present to sell or advertise *Hard Candy* products.

10 11. HARD CANDY, LLC's *Hard Candy* marks are incontestible pursuant to
11 15 U.S.C. § 1115. In any event, HARD CANDY, LLC's trademarks are fanciful
12 marks or at least suggestive marks, and as such are inherently distinctive.
13 Alternatively, there is no question that HARD CANDY LLC's trademarks have
14 acquired a secondary meaning from its continuous use of the trademarks in interstate
15 commerce, and the public's association of the *Hard Candy* name with its business.

16 12. In early 2009, HARD CANDY, LLC decided to license its trademark for
17 various product lines in closely-related fashion and accessory categories, including but
18 not limited to clothing, leather goods, watches, eyeglasses and bedding. Therefore, at
19 that time, HARD CANDY, LLC filed several "intent to use" trademark applications
20 for the aforementioned products with the USPTO.

21 13. On or about August 2009, HARD CANDY, LLC began selling its
22 products exclusively through Wal-Mart Stores across the United States, both at Wal-
23 Mart's retail locations and on Wal-Mart's website, "www.walmart.com".

24 14. *Hard Candy* was an immediate hit at Wal-Mart, and Wal-Mart asked
25 HARD CANDY, LLC to expand its *Hard Candy* product line to include a full line of
26 fashion-related products under the *Hard Candy* trademark to trade off of the goodwill
27 and fame that the *Hard Candy* name has acquired in the industry.

28 15. Accordingly, HARD CANDY, LLC has planned and is in the midst of

1 implementing an extensive launch of *Hard Candy* products at Wal-Mart, including
2 clothing, apparel, furniture, bedding, and more.

3 16. The new product line being launched is entirely within the reasonable
4 zone of expansion from HARD CANDY, LLC's prior use of the *Hard Candy*
5 trademarks.

6 **Defendant's Infringing Use of the *Hard Candy* Mark.**

7 17. On February 7, 2003, Defendant applied for trademark registration of the
8 identical word mark, *Hard Candy*, with the USPTO for Clothing. This application
9 was granted under Registration No. 2,819,833 issued on March 2, 2004.

10 18. Specifically — and critically — Defendant registered the *Hard Candy*
11 trademark for “Clothing in the nature of swimwear, sportswear, streetwear, and
12 motorcycle roadwear, and gym wear, namely, t-shirts, shorts, baseball caps, beanies,
13 chemises, camisoles, panties, boxer shorts, briefs, sweaters, jackets, blazers, shoes,
14 boots, athletic shoes, socks, galoshes, wind resistant jackets, shirts, blouses, pants,
15 slacks, swimsuits, bras, headbands, hats, slips, nightgowns, robes, gowns, bodysuits,
16 coats, jeans, bluejeans, underwear, sweatshirts, bustiers, gloves, mittens, stockings,
17 tights, pantyhose, scarves, vests, halter tops, tube tops, tank tops, leggings, footies,
18 raincoats, ear muffs, turtlenecks, ties, kerchiefs, sneakers, and bandanas.”

19 19. Upon information and belief, during the same year he filed this trademark
20 application, Defendant discontinued — without an intent to resume — any and all use
21 of the *Hard Candy* mark for the goods listed in Reg. No. 2,819,833.

22 20. On June 25, 2009, HARD CANDY, LLC filed a Petition for Cancellation
23 with the USPTO (“Petition”) of Defendant's *Hard Candy* trademark, Registration No.
24 2,819,833, on the basis that Defendant had abandoned the registered mark and is no
25 longer entitled to maintain its registration. This proceeding remains pending in the
26 Trademark Trial And Appeal Board, as Cancellation No. 92051157 (“TTAB Action”).

27 21. Upon information and belief, after HARD CANDY, LLC filed this
28 Petition, Defendant began attempting to revive the mark as part of an improper and

1 manipulative effort to conceal his non-use and manufacture a litigation position
2 against HARD CANDY, LLC.

3 22. Additionally, upon information and belief, Defendant never used the
4 *Hard Candy* mark at all for a majority of the goods listed in Reg. No. 2,819,833.

5 23. Upon information and belief, up to and until at least May 2009,
6 Defendant had a *de minimus*, if any, Internet presence.

7 24. Recently, Defendant has created a website named
8 “www.hardcandyclothing.com” to advertise and sell his *Hard Candy* products.

9 25. Defendant has also now commenced a website registration binge,
10 registering the following seventy-five (75) additional *Hard Candy* websites: hard-
11 candy.net, hard-candy.us, hardcandyclothing.com, hardcandygear.com,
12 hardcandygirl.net, hardcandyindustries.com, hard-candystore.com,
13 hardcandystore.com, hrd-cndy.com, hrd-cndy.info, hrd-cndy.net, hrd-cndy.org, hrd-
14 cndy.us, livehardcandy.com, livehardcandy.info, livehardcandy.net,
15 livehardcandy.org, livehardcandy.us, hardcandycouture.net, hardcandycouture.org,
16 hardcandydesigns.net, hardcandydesigns.org, hardcandyentertainment.com,
17 hardcandyfashion.com, hardcandyfashion.net, hardcandyfashion.org,
18 hardcandygear.net, hardcandygear.org, hardcandygems.com, hardcandygirl.org,
19 hardcandygraphics.com, hardcandygraphics.net, hardcandygraphics.org,
20 hardcandykink.com, hardcandystore.com, hardcandystore.org, hardcandystreet.com,
21 hardcandystreet.net, hardcandystreet.org, hardcandystyle.com, hardcandystyle.net,
22 hardcandystyle.org, realhardcandy.com, realhardcandy.net, realhardcandy.org,
23 sweethardcandy.com, sweethardcandy.org, hardcandybeauty.com,
24 hardcandybeauty.net, hardcandybeauty.org, hardcandybrand.com,
25 hardcandybrand.net, hardcandybrand.org, hardcandyclothing.net,
26 hardcandyclothing.org, hardcandycollection.com, hardcandycollection.net,
27 hardcandycollection.org, hardcandyculture.com, hardcandyculture.net,
28 hardcandyculture.org, hardcandyint.com, hardcandyint.net, hardcandyint.org,

1 hardcandylife.com, hardcandylife.net, hardcandylife.org, hardcandyorganics.com,
 2 hardcandyorganics.net, hardcandyorganics.org, hardcandyworld.com,
 3 hardcandyworld.net, hardcandyworld.org, tastehardcandy.com, tastehardcandy.net,
 4 and tastehardcandy.org.

5 26. Additionally, on March 4, 2010, Defendant filed for a new trademark
 6 registration (Serial No. 77950899) for the word mark *Hard Candy* for “On-line retail
 7 store services featuring clothing, apparel and fashion accessories; retail stores
 8 featuring clothing, apparel, and fashion accessories; retail clothing and apparel stores;
 9 wholesale distributorship featuring clothing and apparel” — claiming a first use in
 10 commerce.

11 27. Defendant’s actions have and will cause HARD CANDY, LLC
 12 irreparable harm for which money damages and other remedies are inadequate.
 13 Unless Defendant is restrained by this Court, Defendant will continue and/or expand
 14 the improper activities alleged in this Complaint and otherwise continue to cause great
 15 and irreparable damage and injury to HARD CANDY, LLC, through *inter alia*:

- 16 a. Depriving HARD CANDY, LLC of its statutory rights to use and control
- 17 use of its exclusive trademarks;
- 18 b. Creating a likelihood of confusion, mistake and deception among
- 19 consumers and the trade as to the source of the infringing products;
- 20 c. Causing the public to falsely associate HARD CANDY, LLC and
- 21 Defendant’s respective but identical *Hard Candy* marks;
- 22 d. Causing incalculable and irreparable damage to HARD CANDY, LLC’s
- 23 goodwill and the dilution of the value of its trademarks.

24 28. Accordingly, in addition to other relief sought, HARD CANDY, LLC is
 25 entitled to preliminary and permanent injunctive relief against Defendant and against
 26 all persons acting in concert with him.

27 **I. CANCELLATION OF DEFENDANT’S REGISTRATION**

28 29. HARD CANDY, LLC realleges and incorporates by reference the

1 allegations of paragraphs 1 through 28 inclusive, as though fully set forth herein.

2 30. On or about February 7, 2003, TUSCANI filed an application with the
3 USPTO to register the *Hard Candy* mark, (Reg. No. 2,819,833). A true and correct
4 copy of Registration No. 2,819,833 is attached hereto as Exhibit A.

5 31. Specifically, Defendant registered the *Hard Candy* trademark for
6 “Clothing in the nature of swimwear, sportswear, streetwear, and motorcycle
7 roadwear, and gym wear, namely, t-shirts, shorts, baseball caps, beanies, chemises,
8 camisoles, panties, boxer shorts, briefs, sweaters, jackets, blazers, shoes, boots,
9 athletic shoes, socks, galoshes, wind resistant jackets, shirts, blouses, pants, slacks,
10 swimsuits, bras, headbands, hats, slippers, nightgowns, robes, gowns, bodysuits, coats,
11 jeans, bluejeans, underwear, sweatshirts, bustiers, gloves, mittens, stockings, tights,
12 pantyhose, scarves, vests, halter tops, tube tops, tank tops, leggings, footies, raincoats,
13 ear muffs, turtlenecks, ties, kerchiefs, sneakers, and bandanas.”

14 32. On or about March 2, 2010, TUSCANI filed a Declaration of Use and/or
15 Excusable Nonuse of Mark in Commerce under Section 8 to the Commissioner for
16 Trademarks, attached hereto as Exhibit B (“Declaration”).

17 33. In this Declaration, TUSCANI declares that he is using all of the specific
18 classes listed above, except, “boots, athletic shoes, galoshes, [and] sneakers.”

19 34. Upon information and belief, this Declaration is demonstrably false.

20 35. Upon information and belief, TUSCANI has never used the *Hard Candy*
21 mark for bandanas, blazers, blouses, bluejeans, bodysuits, boxer shorts, bustiers,
22 coats, corsettes, ear muffs, footies, garter belts, gloves, gowns, halter tops, headbands,
23 jackets, jeans, kerchiefs, mittens, nightgowns, pajamas, pantyhose, petticoats,
24 raincoats, robes, slacks, slippers, socks, stockings, teddies, ties, tube tops, tank tops,
25 turtlenecks, vests or wind resistant jackets – all categories of clothing which
26 TUSCANI falsely stated in his application and in his Declaration that he is using in
27 commerce.

28 36. Additionally, upon information and belief, in 2003 — the same year

1 Defendant filed an application for U.S. trademark registration — Defendant
2 discontinued, without an intent to resume, any and all use of the *Hard Candy* mark for
3 the goods listed in Reg. No. 2,819,833.

4 37. Upon information and belief, only after HARD CANDY, LLC's June 25,
5 2009 filing of a Petition for Cancellation of Defendant's *Hard Candy* trademark on
6 the basis that Defendant had abandoned the registered mark, did Defendant begin to
7 attempt to revive the mark as part of an improper and manipulative effort to conceal
8 his non-use and manufacture a litigation position against HARD CANDY, LLC.

9 38. Because TUSCANI's statements in the application and Declaration were
10 knowingly false, TUSCANI's *Hard Candy* trademark (Reg. No. 2,819,833) was
11 obtained fraudulently and must be canceled.

12 39. Additionally, TUSCANI's non-use of the *Hard Candy* mark for more
13 than three (3) consecutive years is prima facie evidence of abandonment pursuant to
14 Lanham Act, 15 U.S.C. § 1127.

15 WHEREFORE, HARD CANDY, LLC requests that this Court enter judgment
16 against Defendant as further set forth in the Prayer for Relief below.

17 **II. FEDERAL TRADEMARK INFRINGEMENT**

18 **(15 U.S.C. §§ 1114 – 1117; Lanham Act § 32)**

19 40. HARD CANDY, LLC realleges and incorporates by reference the
20 allegations of paragraphs 1 through 39, inclusive, as though fully set forth herein.

21 41. Without HARD CANDY, LLC's consent, Defendant has used the *Hard*
22 *Candy* mark, which infringes on the *Hard Candy* marks previously registered and
23 brought to the marketplace by HARD CANDY, LLC.

24 42. Specifically, HARD CANDY, LLC's *Hard Candy* trademarks,
25 Registration Nos. 1,987,262, 2,150,397, 2,666,792, 2,666,793, 2,343,732, 2,362,340,
26 2,552,029, and 2,567,186, are being infringed upon by Defendant's *Hard Candy*
27 trademark, Registration No. 2,819,833.

28 43. TUSCANI's infringing mark is identical to those of HARD CANDY,

1 LLC.

2 44. TUSCANI's infringing mark, whose target market also includes teenage
3 girls and young female adults, is likely to cause confusion, mistake, or deception as to
4 its source, affiliation, origin connection, association, or sponsorship.

5 45. Additionally, clothing and apparel — the goods purportedly produced by
6 Defendant under his *Hard Candy* trademark (2,819,833) — are well within the zone
7 of natural expansion of HARD CANDY, LLC's marks, given HARD CANDY, LLC's
8 senior use of the *Hard Candy* mark in the cosmetics, fragrance, skin care, hair care
9 and beauty products market. In fact, HARD CANDY, LLC has developed and is
10 implementing a plan to expand into the apparel market in a significant manner.

11 46. Consumers and retailers who sell HARD CANDY, LLC's products also
12 believe that apparel is in HARD CANDY, LLC's zone of natural expansion.

13 47. Moreover, HARD CANDY, LLC's *Hard Candy* fragrance, cosmetics,
14 and other beauty products are related or complementary goods to the *Hard Candy*
15 apparel and fashion line, and buyers are likely to assume a common source or
16 sponsorship of the goods.

17 48. Further, Defendant's activities are likely to lead the buying public to
18 conclude, incorrectly, that his products and improper infringing use of the *Hard*
19 *Candy* mark originates with, is authorized by, or is associated with HARD CANDY,
20 LLC's *Hard Candy* brand which HARD CANDY, LLC has been building since 1995.

21 49. Increasing this likelihood of confusion, Defendant is selling or
22 advertising his *Hard Candy* goods on a website titled
23 "www.hardcandyclothing.com" (emphasis added), and has recently registered an
24 additional seventy-five (75) "hard candy" websites.

25 50. As a result of his wrongful conduct, Defendant is liable to HARD
26 CANDY, LLC for trademark infringement. 15 U.S.C. § 1114(1). HARD CANDY,
27 LLC has suffered, and will continue to suffer monetary damages which it is entitled to
28 recover, including any and all profits Defendant has made as a result of his wrongful

1 conduct, as minimal as they may be. 15 U.S.C. § 1117(a).

2 51. HARD CANDY, LLC is also entitled to injunctive relief pursuant to 15
3 U.S.C. § 1116(a), as HARD CANDY, LLC has no adequate remedy at law.

4 52. HARD CANDY, LLC is further entitled to recover its attorneys' fees and
5 costs. 15 U.S.C. § 1117.

6 WHEREFORE, HARD CANDY, LLC requests that this Court enter judgment
7 against Defendant as further set forth in the Prayer for Relief below.

8 **III. FEDERAL UNFAIR COMPETITION**

9 **(False Designation of Origin and False Description)**
10 **(15 U.S.C. § 1125(a); Lanham Act § 43(a))**

11 53. HARD CANDY, LLC realleges and incorporates by reference the
12 allegations of paragraphs 1 through 52, inclusive, as though fully set forth herein.

13 54. Because HARD CANDY, LLC advertises, markets, distributes and
14 licenses its products under the *Hard Candy* marks, these marks are the means by
15 which HARD CANDY, LLC's products are distinguished from those of others in the
16 same or related fields.

17 55. Defendant's conduct constitutes the improper use of the same term —
18 *Hard Candy* — to describe its infringing products. HARD CANDY, LLC has spent
19 substantial sums in promotion and has generated substantial revenues in association
20 with its products provided under the *Hard Candy* mark. The distinctive *Hard Candy*
21 mark has become impressed upon the minds of the trade and public as identifying
22 HARD CANDY, LLC's fashion and beauty industry-related products, and as
23 indicating the source of origin of such services provided in association with the *Hard*
24 *Candy* mark as emanating from HARD CANDY, LLC. HARD CANDY, LLC has
25 built-up a large and valuable business in the use of the *Hard Candy* mark, and the
26 reputation and goodwill in the mark is of great value to HARD CANDY, LLC.

27 56. Defendant is using and has used, marketed and offered for sale his goods
28 through the use of the *Hard Candy* mark with the purpose of misleading, deceiving or

1 confusing customers and the public as to the origin and authenticity of the services
2 and of trading upon HARD CANDY, LLC's goodwill and reputation. Defendant's
3 conduct as described herein also constitutes an attempt to trade on the goodwill that
4 HARD CANDY, LLC has developed in the *Hard Candy* mark, all to the damage of
5 HARD CANDY, LLC.

6 57. Additionally, Defendant has engaged in cyber-squatting by registering at
7 least forty-seven (47) "hard candy" websites, as described *supra*, which are
8 confusingly similar to HARD CANDY, LLC's trademarks, with a bad faith intent to
9 profit. Defendant's use in commerce of the infringing domain names which are
10 confusingly similar to the *Hard Candy* mark, despite Defendant having actual and
11 constructive notice of HARD CANDY, LLC's prior rights in and to the *Hard Candy*
12 mark, constitutes intentional conduct by Defendant to make false designations of
13 origin about his products and commercial activities.

14 58. Defendant's conduct is likely to cause confusion, mistake or deception by
15 or in the public as to the affiliation, connection, association, origin, sponsorship or
16 approval of the infringing products to the detriment of HARD CANDY, LLC and in
17 violation of 15 U.S.C. § 1125(a)(1).

18 59. Defendant's wrongful conduct is likely to continue unless restrained and
19 enjoined.

20 WHEREFORE, HARD CANDY, LLC seeks temporary and permanent
21 injunctive relief, damages and treble damages in an amount to be proven at trial,
22 attorneys' fees and costs, disgorgement of any and all gains, profits and advantages
23 derived from Defendant's unlawful activities, and such other relief as the court deems
24 just and proper, as further set forth in the Prayer for Relief below.

25 IV. UNFAIR COMPETITION

26 (Common law)

27 60. HARD CANDY, LLC realleges and incorporates by reference the
28 allegations of paragraphs 1 through 59, inclusive, as though fully set forth herein.

1 61. Defendant's use of the *Hard Candy* mark and infringement of HARD
2 CANDY, LLC's marks constitutes unlawful and unfair business practices.

3 62. Defendant is using and has used, marketed and offered for sale his goods
4 through the use of the *Hard Candy* mark with the purpose of misleading, deceiving or
5 confusing customers and the public as to the origin and authenticity of the services
6 and of trading upon HARD CANDY, LLC's goodwill and reputation.

7 63. As a direct and proximate result of Defendant's misconduct, HARD
8 CANDY, LLC has suffered damages.

9 WHEREFORE, HARD CANDY, LLC requests that this Court enter judgment
10 against Defendant as further set forth in the Prayer for Relief below.

11 **V. FEDERAL DILUTION**

12 **(15 U.S.C. § 1125(c); Lanham Act § 43(a))**

13 64. HARD CANDY, LLC realleges and incorporates by reference the
14 allegations of paragraphs 1 through 63, inclusive, as though fully set forth herein.

15 65. The *Hard Candy* marks are distinctive and famous within the meaning of
16 the Federal Trademark Dilution Act of 1995, 15 U.S.C. § 1125(c) ("Dilution Act").

17 66. Defendant's activities as alleged herein constitute dilution of the
18 distinctive quality of the *Hard Candy* marks in violation of the Dilution Act.

19 67. HARD CANDY, LLC is entitled to injunctive relief pursuant to 15
20 U.S.C. § 1125(c).

21 68. Defendant has used, advertised, marketed and offered for sale their goods
22 using the *Hard Candy* name with the purposes of misleading, deceiving or confusing
23 customers and the public as to the origin and authenticity of the services and of
24 trading upon HARD CANDY, LLC's goodwill and reputation.

25 69. Because Defendant willfully intended to tread on HARD CANDY,
26 LLC's reputation or to cause dilution of the *Hard Candy* marks, HARD CANDY,
27 LLC is entitled to damages, extraordinary damages, fees and costs pursuant to 15
28 U.S.C. § 1125(c)(2).

1 WHEREFORE, HARD CANDY, LLC requests that this Court enter judgment
2 against Defendant as further set forth in the Prayer for Relief below.

3 **VI. VIOLATION OF LANHAM ACT § 43(d)**

4 **(Anti-Cybersquatting Consumer Protection Act)**

5 70. HARD CANDY, LLC realleges and incorporates by reference the
6 allegations of paragraphs 1 through 69, inclusive, as though fully set forth herein.

7 71. Upon information and belief, up to and until at least May 2009,
8 Defendant had a *de minimus*, if any, Internet presence.

9 72. Recently, Defendant has created a website named
10 “www.hardcandyclothing.com” to advertise and sell its *Hard Candy* products.

11 73. Defendant has also now commenced a website registration binge,
12 registering the following seventy-five (75) additional *Hard Candy* websites: hard-
13 candy.net, hard-candy.us, hardcandyclothing.com, hardcandygear.com,
14 hardcandygirl.net, hardcandyindustries.com, hard-candystore.com,
15 hardcandystore.com, hrd-cndy.com, hrd-cndy.info, hrd-cndy.net, hrd-cndy.org, hrd-
16 cndy.us, livehardcandy.com, livehardcandy.info, livehardcandy.net,
17 livehardcandy.org, livehardcandy.us, hardcandycouture.net, hardcandycouture.org,
18 hardcandydesigns.net, hardcandydesigns.org, hardcandyentertainment.com,
19 hardcandyfashion.com, hardcandyfashion.net, hardcandyfashion.org,
20 hardcandygear.net, hardcandygear.org, hardcandygems.com, hardcandygirl.org,
21 hardcandygraphics.com, hardcandygraphics.net, hardcandygraphics.org,
22 hardcandykink.com, hardcandystore.com, hardcandystore.org, hardcandystreet.com,
23 hardcandystreet.net, hardcandystreet.org, hardcandystyle.com, hardcandystyle.net,
24 hardcandystyle.org, realhardcandy.com, realhardcandy.net, realhardcandy.org,
25 sweethardcandy.com, sweethardcandy.org, hardcandybeauty.com,
26 hardcandybeauty.net, hardcandybeauty.org, hardcandybrand.com,
27 hardcandybrand.net, hardcandybrand.org, hardcandyclothing.net,
28 hardcandyclothing.org, hardcandycollection.com, hardcandycollection.net,

1 hardcandycollection.org, hardcandyculture.com, hardcandyculture.net,
2 hardcandyculture.org, hardcandyint.com, hardcandyint.net, hardcandyint.org,
3 hardcandylife.com, hardcandylife.net, hardcandylife.org, hardcandyorganics.com,
4 hardcandyorganics.net, hardcandyorganics.org, hardcandyworld.com,
5 hardcandyworld.net, hardcandyworld.org, tastehardcandy.com, tastehardcandy.net,
6 and tastehardcandy.org.

7 74. These domain names are identical or confusingly similar to HARD
8 CANDY, LLC's trademarks, which were distinctive at the time of Defendant's
9 registration of the domain name. In fact, HARD CANDY, LLC's marks are
10 "incontestable marks."

11 75. Additionally, on March 4, 2010, Defendant filed for a new trademark
12 registration (Serial No. 77950899) for the word mark *Hard Candy* for "On-line retail
13 store services featuring clothing, apparel and fashion accessories; retail stores
14 featuring clothing, apparel, and fashion accessories; retail clothing and apparel stores;
15 wholesale distributorship featuring clothing and apparel" — claiming a first use in
16 commerce. A true and correct copy of this registration, Serial No. 77950899, is
17 attached hereto as Exhibit C.

18 76. Defendant's registration of these seventy-six (76) domain names, which
19 are confusingly similar to HARD CANDY, LLC's trademarks, constitutes cyber-
20 squatting with bad faith intent to profit from HARD CANDY, LLC's marks.

21 77. Defendant's registration of Serial No. 77950899 for online retail store
22 services is further confusingly similar to HARD CANDY, LLC's trademarks, and
23 website, www.hardcandy.com.

24 WHEREFORE, HARD CANDY, LLC requests that this Court enter judgment
25 against Defendant as further set forth in the Prayer for Relief below.

26 VII. CALIFORNIA UNFAIR COMPETITION

27 (Cal. Bus. and Prof. Code § 17200 *et seq.*)

28 78. HARD CANDY, LLC realleges and incorporates by reference the

1 allegations of paragraphs 1 through 77, inclusive, as though fully set forth herein.

2 79. By engaging in the acts alleged above, which were done in the course of
3 Defendant's purported attempt to conduct business, Defendant has intentionally
4 caused a likelihood of confusion among the public or has misled or deceived the
5 public and has thus unfairly competed with HARD CANDY, LLC in violation of Cal.
6 Bus. & Prof. Code § 17200 *et seq.*

7 80. Defendant has irreparably injured HARD CANDY, LLC and the
8 consumer recognition and goodwill associated with HARD CANDY, LLC's products
9 and trademarks, and such injury will continue unless enjoined by this Court.

10 81. HARD CANDY, LLC is entitled to all remedies available under Cal.
11 Bus. & Prof. Code § 17200, including but not limited to injunctive relief.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, HARD CANDY, LLC prays that this Court grant it the following
14 relief:

15 1. A judgment that HARD CANDY, LLC's trademarks have been infringed
16 by Defendant in violation of HARD CANDY, LLC's rights under common law and 15
17 U.S.C. § 1114.

18 2. A judgment that Defendant's *Hard Candy* mark, Registration No.
19 2,819,833, shall be cancelled due to abandonment and/or fraud on the U.S. Patent and
20 Trademark Office.

21 3. A judgment that Defendant's *Hard Candy* mark, Serial No. 77950899,
22 shall be denied and/or cancelled as it is confusingly similar to HARD CANDY, LLC's
23 *Hard Candy* marks.

24 4. A judgment that Defendant has competed unfairly with HARD CANDY,
25 LLC in violation of HARD CANDY, LLC's rights under common law and 15 U.S.C. §
26 1125(a).

1 5. A judgment that Defendant's activities are likely to, or have, diluted
2 HARD CANDY, LLC's *Hard Candy* marks in violation of HARD CANDY, LLC's
3 rights under common law and 15 U.S.C. § 1125(c).

4 6. A judgment that Defendant, and each of his agents, employees, attorneys,
5 successors, assigns, affiliates and joint venturers, and any person(s) in active concert or
6 participation with him, be enjoined and restrained from:

- 7 a. Advertising, promoting, selling, offering for sale, or distributing any
8 services or products that use any words or symbols that so resemble the
9 *Hard Candy* mark – including but not limited to the *Hard Candy* name
10 — as to be likely to cause confusion, mistake or deception;
- 11 b. Using any word, term, name, symbol, device or combination thereof
12 which causes or is likely to cause confusion, mistake or deception as to
13 the affiliation or association of Defendant or his goods with HARD
14 CANDY, LLC, with the *Hard Candy* mark, or as to the origin of
15 Defendant's goods, or any false designation of origin, false or misleading
16 description or representation of fact;
- 17 c. Registering any domain name which includes the *Hard Candy* mark or
18 which is confusingly similar to the *Hard Candy* mark;
- 19 d. Further infringing the rights of HARD CANDY, LLC in and to any of its
20 trademarks or otherwise damaging HARD CANDY, LLC's goodwill or
21 business reputation;
- 22 e. Otherwise competing unfairly with HARD CANDY, LLC in any manner;
23 and
- 24 f. Continuing to perform in any manner whatsoever any of the other acts
25 complained of in this Complaint.

26 7. A judgment requiring Defendant to transfer the registration of all seventy-
27 six (76) domain names listed in paragraphs 71 and 72 herein to HARD CANDY, LLC.
28

1 8. A judgment requiring Defendant, within thirty (30) days after service of
2 the Judgment demanded herein, to destroy all advertisements and marketing materials
3 containing infringing materials.

4 9. A judgment requiring Defendant, within thirty (30) days after service of
5 the Judgment demanded herein, to file with this Court and serve upon HARD CANDY,
6 LLC's counsel a written report under oath setting forth in detail the manner in which
7 Defendant has complied with the Judgment.

8 10. A judgment ordering that Defendant hold in trust, as constructive trustee
9 for the benefit of HARD CANDY, LLC, its profits obtained from the infringement of
10 HARD CANDY, LLC's *Hard Candy* mark.

11 11. A judgment ordering Defendant to provide HARD CANDY, LLC with a
12 full and complete accounting of all amounts due and owing to HARD CANDY, LLC as
13 a result of Defendant's illegal activities.

14 12. A judgment that HARD CANDY, LLC recover from Defendant damages
15 in an amount to be proven at trial, including general, special, actual and statutory
16 damages. Pursuant to 15 U.S.C. § 1117, the amounts should include HARD CANDY,
17 LLC's damages and Defendant's profits, if any, trebled pursuant to 15 U.S.C. §
18 1117(b), or alternatively, enhanced statutory damages pursuant to 15 U.S.C. §
19 1117(c)(2), for Defendants' willful violations of the *Hard Candy* marks, and damages
20 under common law.

21 13. A judgment ordering Defendant to pay HARD CANDY, LLC's reasonable
22 attorneys' fees and costs.

23 14. A judgment that Defendant be required to pay HARD CANDY, LLC
24 punitive damages for Defendant's oppression, fraud, malice and intentional misconduct.

25 15. A judgment for all such other relief as this Court deems just and proper.

26 ///

27 ///

28 ///

DEMAND FOR JURY TRIAL

HARD CANDY, LLC hereby demands trial by jury of all issues so triable.

DATED: April 14, 2010

Respectfully Submitted,

By: 

KIRKLAND & ELLIS LLP
Christopher T. Casamassima
Sharre S. Lotfollahi

*Attorneys for Plaintiff,
Hard Candy, LLC*

Of counsel:

Kevin C. Kaplan (to be admitted *pro hac vice*)
Gabriel Groisman (to be admitted *pro hac vice*)
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Miami, Florida 33133
Tel: (305) 858-2900
Fax: (305) 858-5261
Email: kkaplan@coffeyburlington.com
ggroisman@coffeyburlington.com

Name & Address:

Christopher T. Casamassima (SBN 211280)
 Sharre S. Lotfollahi (SBN 258913)
 Kirkland & Ellis LLP
 333 S. Hope Street, Los Angeles, CA 90071
 (213) 680-8400

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

HARD CANDY, LLC, a Florida limited liability
 company,

PLAINTIFF(S)

v.

SCOTT C. TUSCANI d/b/a "HARD CANDY", an
 individual residing in California,

DEFENDANT(S).

CASE NUMBER

CV 10-02700 CAS (JEMx)

SUMMONS

TO: DEFENDANT(S): Scott C. Tuscani d/b/a Hard Candy

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Christopher T. Casamassima, whose address is Kirkland & Ellis LLP, 333 S. Hope St., Los Angeles, CA 90071. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: 04-14-2010

By: [Signature]
 Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) Hard Candy, LLC	DEFENDANTS Scott C. Tuscani d/b/a "Hard Candy"
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Christopher T. Casamassima (213) 680-8400 Sharre S. Lotfollahi Kirkland & Ellis LLP, 333 South Hope Street, Los Angeles, CA 90071	Attorneys (If Known) Kurt Koenig (805) 965-4400 Koenig and Associates 920 Garden Street, Suite A, Santa Barbara, CA 93101

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:35%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:35%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. ORIGIN (Place an X in one box only.)

☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from another district (specify): _____
 ☐ 6 Multi-District Litigation
 ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No **MONEY DEMANDED IN COMPLAINT: \$** _____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Plaintiff brings claims pursuant to 15 U.S.C. §§ 1114-1117, 1125 and various state laws arising from Defendant's infringing use of the Hard Candy trademark.

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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FOR OFFICE USE ONLY: Case Number: CV 10-02700

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or

☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or

☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or

☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Florida

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Santa Barbara	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
A substantial part of each claim alleged in the complaint arose in Santa Barbara County.	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):

 Date 4/14/2010

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Christina A. Snyder and the assigned discovery Magistrate Judge is John E. McDermott.

The case number on all documents filed with the Court should read as follows:

CV10- 2700 CAS (JEMx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

===== :
NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.